

THOMAS J. BALBONI, JR.,)
)
 Petitioner,) 3:11-cv-00458-RCJ-RAM
)
 vs.) **ORDER**
)
 WARDEN, NNCC, *et al.*,)
)
 Respondents.)
 /

The instant action, however, must be dismissed as successive. Petitioner’s document initiating the instant action is a “notice of appeal” from the Nevada Supreme Court’s order denying his appeal of state case number CR04-1276, the same state criminal conviction he challenges in 3:11-cv-457-RCJ-VPC. (ECF No. 1-1). Petitioner filed a “notice of remittitur” on July 15, 2011, which further indicates that petitioner is challenging his conviction and the Nevada Supreme Court’s

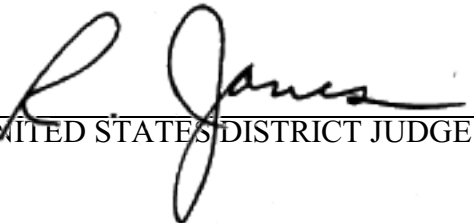
1 denial of his appeal in state case number CR04-1276. (ECF No. 3). Because this action is
2 successive and duplicative of the petitioner's federal habeas petition filed in this Court at 3:11-cv-
3 457-RCJ-VPC, the instant action is dismissed.

4 **IT IS THEREFORE ORDERED** that the instant action, **3:11-cv-00458-RCJ-RAM**, is
5 **DISMISSED WITH PREJUDICE**.

6 **IT IS FURTHER ORDERED** that petitioner is **DENIED A CERTIFICATE OF**
7 **APPEALABILITY**.

8 **IT IS FURTHER ORDERED** that the Clerk of Court shall enter judgment accordingly.

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10 DATED this 16th day of September, 2011.

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14 UNITED STATES DISTRICT JUDGE
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